



1           The Court also ordered that, at least fourteen days prior to the ENE  
2 Conference, counsel for all parties and the property managers of commercial locations,  
3 shall meet and confer in person at the subject premises regarding settlement of the  
4 alleged premise violations, and damages, costs, and attorney fee claims. (Doc. No. 11  
5 at 3.) The Court ordered that Plaintiff's counsel was responsible for making  
6 arrangements for the conference. Id.

7           Further, the parties were ordered to lodge with the Court, no later than seven  
8 days prior to the ENE Conference, a joint statement advising the Court of the status of  
9 settlement negotiations and setting forth all issues in dispute, including property issues,  
10 Plaintiff's alleged damages, and the claim for attorney's fees and costs, along with a  
11 description of any settlement demands and/or offers exchanged. (Doc. No. 11 at 3.)

12           During the week of October 13, 2014, the Court's clerk called Plaintiff's  
13 counsel to inquire about the statement that Plaintiff's counsel was ordered to lodge with  
14 the Court and serve on Defense counsel by October 1, 2014. See Doc. No. 11 at 3.  
15 Plaintiff's counsel's office advised that they "missed" the ENE Conference Order. On  
16 October 16, 2014, Plaintiff's counsel lodged Plaintiff's ENE statement with the Court.  
17 On October 20, 2014, Defendant filed its ENE statement on the case docket. (Doc. No.  
18 12.)

19           On October 20, 2014, the Court's clerk contacted Plaintiff's counsel to inquire  
20 about the joint statement that had not yet been received by the Court. See Doc. No. 11  
21 at 3. Plaintiff's counsel again stated that they had not been aware of the ENE  
22 Conference set for October 22, 2014, and therefore, failed to fulfill the Court's  
23 requirement to meet and confer in person at the subject premises at least fourteen days  
24 prior to the ENE Conference. Id. Plaintiff's counsel requested that the ENE  
25 Conference be continued so that counsel could fulfill the Court's meet and confer  
26 requirement.

27           On October 20, 2014, the Court issued an Order to Show Cause ("OSC");  
28 Amended Notice and Order for ENE Conference. (Doc. No. 13.) The Court set an

1 OSC Hearing for November 26, 2014, at 7:00 a.m. Id. at 3. The Court ordered  
 2 Plaintiff's counsel to show cause why Plaintiff's counsel failed to arrange the meet and  
 3 confer session at the subject premises, why counsel failed to lodge a joint statement  
 4 with the Court, and why Plaintiff's counsel failed to lodge with the Court an itemized  
 5 list of the specific issues on the subject premises until October 16, 2014. Id. Plaintiff's  
 6 counsel was ordered to file a Declaration explaining its failure to comply with this  
 7 Court's Notice and Order for ENE Conference by November 12, 2014. Id.

8 On November 13, 2014, one day after the Court's deadline, Plaintiff filed a  
 9 Declaration of Mark Potter. (Doc. No. 14.) Although the document was titled,  
 10 "Declaration of Mark Potter," and the declaration was signed by Mark Potter, the  
 11 declaration began by stating, "I, Dennis J. Price..." Id. at 1-2.

## 12 **II. DISCUSSION**

13 Pursuant to Federal Rule of Civil Procedure ("Rule") 16(b)(3), a district court  
 14 is required to enter a pretrial scheduling order that "must limit the time to join other  
 15 parties, amend the pleadings, complete discovery, and file motions." Fed.R.Civ.P.  
 16 16(b)(3)(A). The scheduling order "controls the course of the action unless the court  
 17 modifies it[ ]" and Rule "16 is to be taken seriously." Fed.R.Civ.P. 16(d); Janicki  
 18 Logging Co. v. Mateer, 42 F.3d 561, 566 (9th Cir.1994). As the Eastern District of  
 19 California has stated, parties must "diligently attempt to adhere to [the court's] schedule  
 20 throughout the subsequent course of the litigation." Jackson v. Laureate, Inc., 186  
 21 F.R.D. 605, 607 (E.D.Cal.1999). "A scheduling order 'is not a frivolous piece of paper,  
 22 idly entered, which can be cavalierly disregarded without peril.'" Johnson v. Mammoth  
 23 Recreations, Inc., 975 F.2d 604, 610 (9th Cir.1992) (quoting Gestetner Corp. v. Case  
 24 Equip. Co., 108 F.R.D. 138, 141 (D.Me.1985)).

25 The Court finds that Plaintiff's counsel's firm has demonstrated a lack of  
 26 attention to detail and a cavalier approach to complying with this Court's schedule and  
 27 Orders. These are unacceptable business practices, and it is mandatory that all parties  
 28 and all attorneys comply with Court Orders and deadlines.

